

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
WTB Seeks Comment on CMRS)	WT Docket No. 06-17
Market Competition)	DA 06-62

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (“NTCA”) submits these comments in response to the above referenced *Public Notice*¹ in which the Wireless Telecommunications Bureau (“WTB” or “Bureau”) solicits data and information in order to evaluate the state of competition among providers of CMRS for its Eleventh Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services. NTCA is a national association representing more than 560 rural telecommunications providers. While NTCA’s members are all rural incumbent local exchange carriers, most provide their rural communities with a broad array of telecommunications services, including wireless service.

NTCA regularly solicits data from its members about wireless services offered, technology(ies) employed, and customers served. NTCA’s latest wireless survey was completed in January 2006.² One hundred and six member companies responded to NTCA’s request for information. The survey results provide aggregated information

¹ *Public Notice* WTB seeks comments on CMRS Market Competition, WT Docket No. 06-17, DA 06-62 (released January 18, 2006) (*Public Notice*).

² *NTCA 2005 Wireless Survey Report* (released January 2006). Attached as an Appendix to these comments.

about pricing, features, and technology. A copy of NTCA's most recent wireless survey report is attached.

I. BARRIERS TO ENTRY

In the *Public Notice*, the Bureau seeks comment on types of barriers to entry in the mobile telecommunications market and whether barriers to entry are different in rural and urban areas. The Bureau also questions whether there is access to sufficient spectrum, either through Commission auctions or through secondary market transactions.

Despite the mandates in Section 309(j) of the act, barriers to entry still exist for rural telephone companies. As a result, the goal of rapid deployment in rural areas is yet to be achieved in an adequate manner. NTCA's survey quantified the immediate need and desire of our members for more spectrum in rural areas and the difficulties they face in obtaining it. While 57% of survey respondents indicated that they currently hold at least one wireless license, the inability of NTCA members to obtain access to licensed spectrum has led 46% of survey respondents to turn to unlicensed spectrum to serve their customers. This is, at best, an imperfect solution, as evidenced by the fact that survey respondents indicated that they would prefer access to additional licensed spectrum over additional unlicensed spectrum by a 3-to-1 margin. Concerns that threatened future wireless plans included rural carriers' inability to obtain spectrum at auction, cited by more than one-fourth of all survey respondents.

While 6% of survey respondents indicated that they had acquired spectrum in the past year, this number is down significantly from the 2004 response of 10%, and the 2003

response of 23%.³ Only 11% of survey respondents indicated that they entered into negotiations to acquire spectrum.

For rural carriers, the spectrum leasing process can be lengthy, burdensome, and usually, unsuccessful. Rural carriers tell us that large carriers are unwilling to work with them and frequently neglect to respond to inquiries. Members describe spectrum-leasing opportunities as “virtually nonexistent.”

While secondary markets may be useful tools for rural carriers interested in serving portions of larger carriers’ service territories, to date the opportunity has been available for only a handful of carriers. More opportunities may materialize after large carriers work through their consolidation efforts, determine how they will use particular spectrum, what portion of the spectrum will never yield a sufficient return on investment and is therefore expendable, and for what price they are willing to part with it.

NTCA continues to advocate a “keep what you use” spectrum licensing approach.⁴ Under “keep what you use,” if spectrum is licensed according to a large service territory and it goes unused after a certain period of time, the unused spectrum would revert to the Commission for re-licensing. This would provide the necessary incentive for large carriers to enter into negotiations with the small carriers for partitioning agreements. If a carrier neglected to do so, the unused spectrum would become available through the regulatory process. Either way, the inability to obtain

³ The survey did not ask respondents how they acquired the spectrum.

⁴ See, NTCA Comments, In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation, WT Docket No. 03-202, *Notice of Proposed Rulemaking*, (filed January 14, 2005).

spectrum would become less of a barrier for carriers interested in serving rural communities.

II. COMPETITION

In the Public Notice, The Bureau seeks comment on the extent of mobile voice and data competition in rural areas, and asks if there are any noteworthy trends in rural competition. The average respondent to the NTCA 2005 Wireless Survey indicated that their company competes with between two and five other carriers.

This number is misleading, however, as many competitors may serve only a small portion of a rural area. Typically, they will serve the small town within a geographically larger rural area, or will only offer service along a major road or highway that runs through a rural area. This “cherry picking” behavior can negatively impact those rural customers living outside of the town or off of the major highway. In fact, if the larger carrier holds the spectrum rights to these areas but chooses not to serve the outlying customers, these customers may not have access to any wireless service whatsoever. Again, the Commission should seek to lessen the harmful impact on these rural customers through the imposition of a “keep what you use” approach to spectrum licensing.

As NTCA has previously noted, competition in rural markets is further hindered by large carriers using their market power to force smaller carriers into unfavorable roaming agreements.⁵ Rural carriers are often dependent upon revenue generated by customers of other carriers roaming on the rural network. NTCA members complain that large carriers block their customers from roaming on the small carriers’ networks, or engage in a practice that favors roaming on other large, nationwide carriers rather than on

⁵ See, NTCA Comments, In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, WT Docket No. 05-265, Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 00-193, (filed November 28, 2005).

the rural carriers' network. Further, when it comes to negotiating roaming agreements with rural providers, large carriers hold all the power. NTCA believes that the creation of automatic roaming requirements between CMRS carriers and requiring that the terms of roaming agreements be just and reasonable will go a long way toward solving these problems.

III. CONCLUSION

Consolidation of large carriers in the CMRS marketplace threatens the viability of the small carriers who serve rural America. The Commission must make a greater effort to ensure that small carriers have access to wireless spectrum and that large carriers either make use of the wireless spectrum to which they have obtained rights, or make the spectrum available to other carriers who are willing and able to provide CMRS service to rural America.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

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February 17, 2006

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WT Docket No. 06-17, DA 06-62 was served on this 17th day of February 2006 by electronic mail to the following persons.

/s/ Gail Malloy

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